

Senate Study Bill 1064

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON REDFERN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act creating an exception to the statutory rule against
2 perpetuities and making related changes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1918XC 80
5 rh/sh/8

PAG LIN

1 1 Section 1. Section 557.7, Code 2003, is amended to read as
1 2 follows:
1 3 557.7 CONTINGENT REMAINDERS.
1 4 ~~* Except as provided in section 558.68A, a contingent~~
1 5 remainder shall take effect, notwithstanding any determination
1 6 of the particular estate, in the same manner in which it would
1 7 have taken effect if it had been an executory devise or a
1 8 springing or shifting use, and shall, as well as such
1 9 limitations, be subject to the rule respecting remoteness
1 10 known as the rule against perpetuities, ~~exclusive of any other~~
~~1 11 supposed rule respecting limitations to successive generations~~
~~1 12 or double possibilities.~~

1 13 Sec. 2. NEW SECTION. 558.68A EXCEPTION TO RULE AGAINST
1 14 PERPETUITIES.

1 15 1. Notwithstanding section 558.68, a rule of law against
1 16 perpetuities, a suspension of the power of alienation of the
1 17 title to property, or a law restricting or limiting the
1 18 duration of trusts shall not apply with respect to any
1 19 interest in real or personal property held in trust if the
1 20 instrument creating the trust specifically states that such
1 21 rule or the provisions of section 558.68 shall not apply to
1 22 the trust and if either the trustee of the trust has unlimited
1 23 power to sell all trust assets, or one or more persons, one of
1 24 whom may be the trustee, has unlimited power to terminate the
1 25 entire trust.

1 26 2. A trust of real or personal property created by an
1 27 employer as part of a stock bonus plan, pension plan,
1 28 disability or death benefit plan, or profit sharing plan, for
1 29 the benefit of some or all the employer's employees, to which
1 30 contributions are made by the employer or employees, or both,
1 31 for the purposes of distributing to the employees or their
1 32 beneficiaries the earnings or the principal, or both, of such
1 33 trust is not invalid as violating the rule against
1 34 perpetuities or any other law restricting or limiting the
1 35 duration of trusts; but the trust may continue for the time
2 1 that is necessary to accomplish the purposes for which it was
2 2 created.

2 3 3. Subsection 1 shall be effective for interests in real
2 4 or personal property in trust created by an inter vivos or
2 5 testamentary trust or will executed on or after July 1, 2003,
2 6 or pursuant to the exercise of a general power of appointment
2 7 on or after July 1, 2003. For the purposes of this
2 8 subsection, "general power of appointment" means a power that
2 9 is exercisable in favor of the individual possessing the
2 10 power, the person's estate, the person's creditors, or the
2 11 creditors of the person's estate.

2 12 EXPLANATION

2 13 This bill creates an exception to the statutory rule
2 14 against perpetuities codified in Code section 558.68, which is
2 15 a legal rule related to invalidating interests in property
2 16 that are intended to belong to a person at some point in the
2 17 future, but for which the actual determination of ownership
2 18 cannot or will not be accomplished within a specified period
2 19 of time. The purpose of the rule is to keep property from
2 20 being frozen in trust beyond a certain period of years.

2 21 The bill allows a creator of a trust to suspend, explicitly
2 22 in the trust document, the rule from applying to a particular

2 23 trust, but only if the trustee has the power to sell all trust
2 24 assets or if one or more people, including the trustee, has
2 25 the power to terminate the trust.

2 26 The bill further allows suspension of the rule in
2 27 situations where an employer creates a stock bonus plan,
2 28 pension plan, disability or death benefit plan, or profit
2 29 sharing plan, in trust, for the benefit of the employer's
2 30 employees, for the purpose of distributing to the employees or
2 31 their beneficiaries earnings or principal or both.

2 32 This exception applies to all interests in real or personal
2 33 property by testamentary or inter vivos trust or will, or to
2 34 the exercise of a general power of appointment, executed on or
2 35 created after July 1, 2003.

3 1 LSB 1918XC 80

3 2 rh/sh/8